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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,097	02/01/2001	Toyoshi Takahashi	04730.002001	6314

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EXAMINER

RUDY, ANDREW J

ART UNIT PAPER NUMBER

3627

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/775,097

Applicant(s)

TAKAHASHI ET AL.

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11, 13, 14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11, 13, 14 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submissions filed on October 20 and November 22, 2004 has been entered. Claims 11, 13, 14 and 16 are pending.

### ***Drawings***

2. The drawings were received on October 20, 2004. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11, 13, 14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11, line 2, "a service program stored" is not clear. Where/How is the service program stored in relationship to the other claim language.

Claim 11, line 2, "permission information" is not clear. Applicant's October 20, 2004 REMARKS have been reviewed, but are not convincing. Nowhere is the terminology "permission information" used from the descriptive portion of the specification. If the Examiner were to use Applicant's reasoning, then the claim 11 language would be redundant. That is, claim 11, lines 2-3, from "permission information regarding a number of other terminals permitted to receive" is redundant claim language. Thus, it is not clear what Applicant's claim language is directed towards.

Claim 14, line 2, "permission information" is not clear. The comments associated with claim 11 regarding this same issue are applicable to claim 14.

Applicant's October 20, 2004, page 9, paragraph 1, REMARKS regarding "billing server" from claim 14 are convincing and the previous rejection is withdrawn.

***Claim Rejections - 35 USC § 103***

5. Claims 11, 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginzboorg et al., US 6,047,051.

Applicant is directed towards the July 20, 2004 Final Rejection, paragraph 5. Applicant's October 20, 2004 REMARKS have been reviewed, but are not convincing.

It is noted that the October 20, 2004, page 10, paragraph 2, REMARKS regarding the limitations is not entirely consistent with what Applicant's claim 11, line 2 language recites, i.e. "stored."

Also, the gateway computer GW of Ginzboorg may in broad scope and content be viewed as a server, as it may be viewed as a "distribution hub" of information that is forwarded. The information forwarded is, in broad scope and content, deemed a service program. Applicant's REMARKS with regards to permission information is not convincing, as this phrase is not clear. Thus, Applicant's request to accept an unclear meaning is untenable.

6. Claims 11, 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawa, US 6,477,708.

Sawa discloses a billing system comprising a billing server, e.g. 6, a plurality of terminals, e.g. 2a thru 2n, a communication network, e.g. 7, and a client manager server terminal, e.g. 4, that permits a number of the terminals 2a-2n, to receive a program, e.g. video broadcast. Sawa does not specifically disclose the client manager server program notifying the billing server to charge for receiving the service program. Official Notice is taken that it has been common knowledge for an entity to charge an/other entity(ies) for services received in response to notification thereof. To have provided such for Sawa would have been obvious to one of ordinary skill in the art, in view of Official Notice. The motivation for providing such would have been to have charged the entities that received the broadcast in order to provide an adequate cash flow for the entity providing the service requested.

7. Further pertinent references of interest are noted on the attached PTO-892.

Nagaoka et al., US 6,651,174, e.g. see claims 1 & 3.

Jamroga et al., US 6,574,742, e.g. server 32 and authorization discussion.

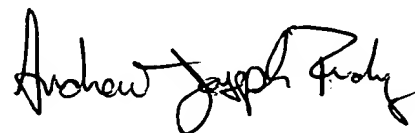
Polit et al., US 6,407,998, e.g. col. 8, lines 45+, server described as a distribution hub.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on 703-308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Andrew Joseph Rudy". The signature is written in a cursive, flowing style with a large initial "A".